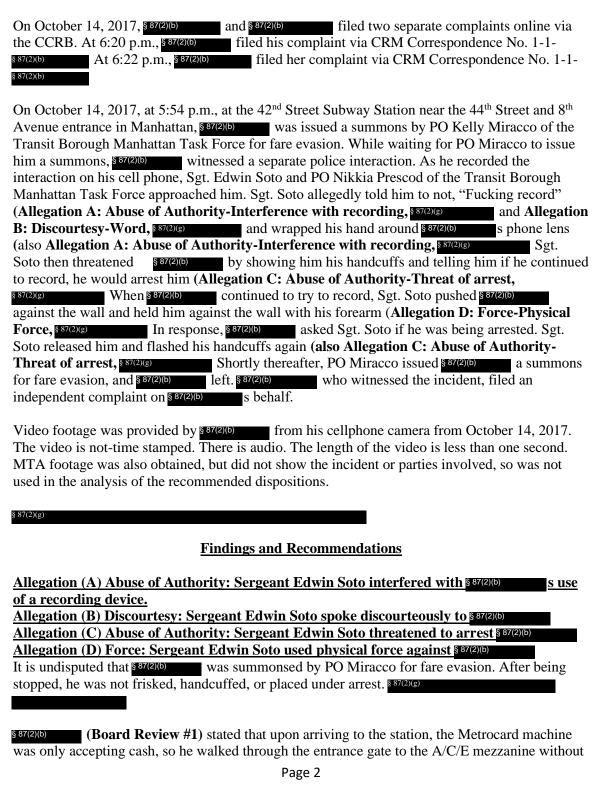
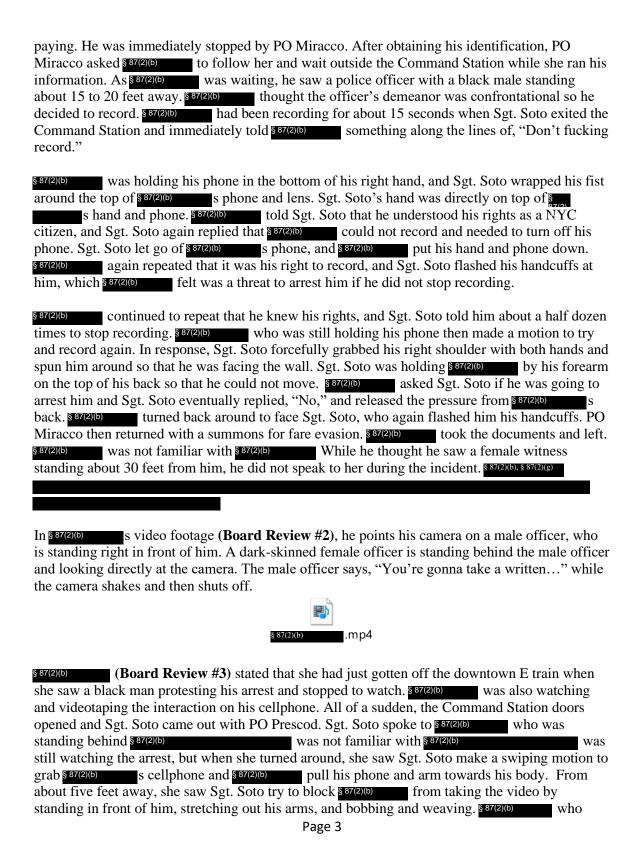
## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	<b>✓</b> Force	☑ Discourt.	☐ U.S.
Judith Le		Squad #12	201708558	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Saturday, 10/14/2017 5:54 PM		42nd Street subway station (West 44th and 8th Avenue entrance)		14	4/14/2019	4/14/2019
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time	Date/Time Received at CCRB	
Sat, 10/14/2017 6:21 PM		CCRB	On-line website	Sat, 10/14/2017 6:21 PM		
Complainant/Victim	Type Home Address					
Subject Officer(s)	Shield	TaxID	Command			
1. SGT Edwin Soto	05614	935778	TB M/TF			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. POF Katie Miracco	14798	956101	TB M/TF			
2. POF Nikkia Prescod	02748	957053	TB M/TF			
Officer(s)	Allegatio	on		Inve	estigator Recon	nmendation
A.SGT Edwin Soto	Abuse: Sergeant Edwin Soto interfered with \$87(2)(b) suse of a recording device.					
B.SGT Edwin Soto	Discourtesy: Sergeant Edwin Soto spoke discourteously to \$87(2)(b)					
C.SGT Edwin Soto	Abuse: Sergeant Edwin Soto threatened to arrest [887(2)]					
D.SGT Edwin Soto	Force: Sergeant Edwin Soto used physical force against [887(2)]					

## **Case Summary**





appeared agitated and nervous in his facial expressions, continued to try and film around Sgt. Soto.

said when it became apparent that \$87(2)(b) did not intend to stop recording, Sgt.
said when it became apparent that \$87(2)(b) did not intend to stop recording, Sgt. Soto pushed him against the wall and visibly restrained him. \$87(2)(b) s arms were against the wall, and he was holding his cellphone in one of his hands. Sgt. Soto had his left forearm draped across \$87(2)(b) s chest, and his right hand was holding down \$87(2)(b) s left arm, which was still holding the cellphone. PO Prescod was standing next to \$87(2)(b) and observing what was going on. \$87(2)(b) saw \$87(2)(b) try to push away from Sgt. Soto. She heard Sgt. Soto tell \$87(2)(b) he was not complying and aggressively ask him, "Why are you doing this?" Sgt. Soto also told \$87(2)(b) "You don't want to continue this, you better not continue, do you really want to continue?" \$87(2)(b) looked terrified, but kept repeating that he knew his
rights. At this point, \$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$\\$
see if he was okay, but he quickly fail onto a train.
Sgt. Soto ( <b>Board Review #4</b> ) stated he was in the 42 <sup>nd</sup> Street Command Center when he saw appear to speak loudly via the video cameras posted outside. Sgt. Soto could not hear what was going on, so he went outside. The officers outside informed him that strip and another individual had been stopped for theft of service. At that time, was trying to record a separate police incident involving another person that was occurring about five feet away. strip was not interfering with the other stop, but Sgt. Soto approached strip and informed him that he could not record anything on his phone because he was being detained. Sgt. Soto explained that if someone was being detained for an infraction or crime, they were not allowed to put their hands in their pocket, touch anything, or move around. At the time that Sgt.

and informed him that he could not record anything on his phone because he was being detained. Sgt. Soto explained that if someone was being detained for an infraction or crime, they were not allowed to put their hands in their pocket, touch anything, or move around. At the time that Sgt. Soto approached rate and upset and responded in a loud tone. Sgt. Soto could not remember what said, but he replied, "Sir, you cannot record at this time." Sgt. Soto told at least two times that he could not record, but he would not stop. Sgt. Soto could not remember if he used profanity, but stated that he again told said he could not record and tried to grab the phone from his right hand. Sgt. Soto could not remember if he threatened to arrest him, noting that he could not remember exactly what he told said he emphasized the only thing he could remember doing was trying to get said to stop recording because he was not allowed to record at that time. He could not remember if he touched any part of sody, pushed him against a wall, or placed his forearm against him. He did not mention showing said his handcuffs. Sgt. Soto stated that after he put his hand on said the said of said that after he put his hand on said the said of said that after he put his hand on said the said that after he put his hand on said the said that after he put his hand on said the said that after he put his hand on said the said that after he put his hand on said the said that after he put his hand on said the said that after he put his hand on said the said that after he put his hand on said the said that after he put his hand on said the said that the said that after he put his hand on said the said that the said that after he put his hand on said the said that the said that after he put his hand on said the said that the said that after he put his hand on said the said that the said that after he put his hand on said the said that the said

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hand, \$87(2)(b) said he would put the phone away. \$87(2)(b) then put his phone in his pocket and Sgt. Soto walked away.
PO Miracco ( <b>Board Review #5</b> ) said she instructed to wait outside the Transit Command Center while she conducted a warrant check. During this time, she did not see interact with any other officers, and she could not see what was going on outside because the Command Center windows were painted black. After completing the background check, PO Miracco wrote a summons and exited the Command Center. She could not recall what strictly was doing. PO Miracco saw Sgt. Soto standing near the barricades of the Command Center, but did not see him interact with strictly or make physical contact with him. PO Miracco explained the summons to strictly and then he left.
Summons #\$\$7(2)(b) (Board Review #6) was issued to \$\$7(2)(b) by PO Miracco. The narrative states, "At 5:54 p.m., PO Observed respondent jump over the turnstile avoiding legal payment of fare."
PO Prescod ( <b>Board Review #7</b> ) stated at 6:10 p.m., she was inspecting the 43 <sup>rd</sup> and 8 <sup>th</sup> Avenue stairwell. Prior to that, she did not recall seeing (S87(2)(5)) or Sgt. Soto interacting with him. PO Prescod said she saw Sgt. Soto in the command, but did not see him push anyone against the wall, grab someone's phone, or tell someone not to record.
P.G. 208-03 states that a person remaining in the vicinity of a stop or arrest to observe shall not be subject to arrest for Obstructing Governmental Administration (PL § 195.05), unless the officer has probable cause to believe the person is obstructing governmental administration. Observers at the scene of police incidents may take photographs, videotapes or tape recordings, so as long as they do not endanger the safety of officers or other persons, or violate the law. Taking photos or video alone does constitute probable cause to arrest ( <b>Board Review #8</b> ).
PL § 195.05 states that a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function ( <b>Board Review #9</b> ).
P.G. 203-09 states that when engaging with the public, officers must be courteous and respectful ( <b>Board Review #10</b> ).
P.G. 221-02 says that officers at the scene of a police incident should apply no more than reasonable force necessary to gain control (see Board Review #11).
§ 87(2)(b), § 87(2)(g)
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§ 87(2)(b), § 87(2)(g)
Civilian and Officer CCRB Histories
• Sgt. Soto has been a Member of Service for thirteen years and has been a subject in four previous CCRB complaints, totaling eight allegations, with no substantiations.
• This is \$87(2)(b) s first CCRB complaint (Board Review #12).
• This is §87(2)(b) s first CCRB complaint (Board Review #13).
Mediation, Civil and Criminal Histories

- declined mediation because he wanted the officer to be disciplined.
- An OCA search conducted on January 10, 2018 revealed that [87(2)(6)] did not have any previous criminal convictions (**Board Review #14**).
- An OCA search conducted on January 18, 2018 revealed that \$87(2)(b) did not have any previous criminal convictions (**Board Review #15**).
- As of January 3, 2018, a Notice of Claim has not been filed by \$87(2)(b) (Board Review #16).

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§ 87(2)(b), § 87(2)(g)

Squad No.: 12	2		
Investigator: _	Signature	Print Title & Name	Date
Squad Leader: _	Signature	Print Title & Name	Date
Reviewer: _	Signature	Print Title & Name	Date